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Notice of Allowability

Application No.	Applicant(s)	
10/034,448	EIDENSCHINK, TRACEE E.J.	
Examiner	Art Unit	
Andrew M. Gilbert	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- ☒ This communication is responsive to the after final amendment filed on 6/6/2007.
- ☒ The allowed claim(s) is/are 20,22-40,78 and 79.
- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - ☐ All
 - ☐ Some*
 - ☐ None
 of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons

Andrew Gilbert
Andrew Gilbert
6/21/2007

DETAILED ACTION

1. This office action is in response to the after final amendment filed on 6/6/2007.
2. In the reply, the Applicant amended claims 20, 78, and 79; cancelled claims 1-19, 21, 52-55, 57, 58, 64-67, 69, 70, 76, and 77.
3. Claims 20, 22-40, 78, and 79 remain pending for examination with claims 23-38, 40 being previously withdrawn.

Election/Restrictions

4. Claims 20, 22, 39, 78 and 79 are allowable. Claims 23-38, 40 previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement between invention species, as set forth in the Office action mailed on 9/30/2003 (also see Applicant's response on 12/6/2004), is hereby withdrawn** and claims 23-38, 40 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Citation of Pertinent Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hisamatsu et al (6533754); Sirhan et al (6013069); and Solar et al (4917666).

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Glenn Seager on 6/18/2007.

The application has been amended as follows:

In claim 20, In 9 after "around the tubular wall, "

--the at least one slit having a traverse length greater than a longitudinal length, -
- has been inserted.

In claim 20, In 15 before "distal tubular member"

"then" has been deleted.

In claim 20, In 19 after "tubular"

"shaft" has been deleted.

--member-- has been inserted.

Claims 25-30 have been cancelled.

In claim 78, In 10 after "around the tubular wall, "

--the at least one slit having a traverse length greater than a longitudinal length, -
- has been inserted.

In claim 78, In 15 before "distal tubular member"

"then" has been deleted.

In claim 78, In 19 after "tubular"

"shaft" has been deleted.

--member-- has been inserted.

In claim 79, In 10 after "around the tubular wall, "

--the at least one slit having a traverse length greater than a longitudinal length, -
- has been inserted.

In claim 79, In 15 before "distal tubular member"

"then" has been deleted.

In claim 79, In 19 after "tubular"

"shaft" has been deleted.

--member-- has been inserted.

REASONS FOR ALLOWANCE

7. The following is an examiner's statement of reasons for allowance:
8. The subject matter of the independent claim could either not be found or was not suggested in the prior art of record. The prior art does not disclose or render obvious the combination as claims specifically including a hypotube having a lumen and a first section having at least one slit extending through the wall, the at least one slit partially and circumferentially extending around the tubular wall and having a traverse length greater than a longitudinal length, and a second section distal to the first section comprising an elongated axially extending cut out through the tubular wall and a non-tubular stinger formed from a remaining portion of the tubular wall and extending distally into a distal catheter shaft in combination with the other elements of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571)

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272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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